APPEAL NO. 020217
FILED MARCH 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 2, 2002. She determined that the appellant (claimant) sustained a compensable low back injury when he fell on _____, and had disability therefrom beginning August 4, 2001, and ending August 20, 2001.

The claimant has appealed the disability determination. The claimant argues that testimony alone can support disability and the hearing officer erred by requiring medical corroboration. The respondent (carrier) responds that the decision is supported by the record.

DECISION

We affirm the hearing officer's decision and order.

The claimant was an electrician and "working supervisor" who said he tripped and fell on a stairwell, onto his buttocks, injuring his lower back, while at a worksite. He was injured on a Monday but worked his job through Friday without missing time or reporting his injury. Several other supervisors noted that the claimant did not appear to have any difficulty performing his job. The hearing officer's summary stated that the claimant testified that Saturday was not a workday, but there was testimony from all others that Saturday was a mandatory overtime day and that the claimant had said (and was overheard by at least one supervisor) that he would not be at work because he was finishing a private electrical contract job in another state. This was denied by the claimant. The claimant asserted that his medical care stopped after August 21, 2001, when the carrier disputed the claim. The claimant generally testified that he had not worked due to back pain since August 21, 2001.

While it is true that a finding of disability may be based on a claimant's testimony, and medical evidence is not required, such testimony is not conclusive or binding on the finder of fact. The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). A trier of fact may reconcile conflicts by concluding that although a worker was injured, the severity of the injury was not such that it would result in months of inability to work. In this case, the hearing officer evidently considered not just medical evidence but the entire record in concluding that the claimant's injury ceased to be the cause of his out-of-work status after three weeks. Objective EMG testing showed no evidence of radiculopathy as of August 21, 2001. Symptoms were confined to the lower back. The claimant worked an entire workweek after the injury, without observable difficulty.

An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even

if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this was the case here, and affirm the decision and order.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6th STREET
AUSTIN, TEXAS 78701.

Susan M. Kelley
Appeals Judge

CONCUR:

Terri Kay Oliver
Appeals Judge

Philip F. O'Neill
Appeals Judge